

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

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Expiration date for clearance:06/30/2002

Authority

Under section 10(a)(1)(A) of the Endangered Species Act of 1973 (ESA), NMFS may issue permits for scientific research purposes or to enhance the propagation or survival of species listed as threatened or endangered under the ESA. The authorization provided by these permits exempts the permit holder from the prohibitions of ESA section 9, in particular those dealing with takes. **Take** is defined by the ESA as: "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Permitted activities must not operate to the disadvantage of the listed species and must provide a bona fide and necessary or desirable scientific purpose or enhance the propagation or survival of the listed species. NMFS may issue a permit for up to five years, and the permit may include conditions as necessary to mitigate and monitor the impact of the proposed activities. These application instructions are in coordination with, but not substituting for the ESA section 10 regulations at 50 CFR §222.308. Applicable State laws or regulations will prevail if they are more restrictive. Receipt and possession of a section 10(a)(1)(A) permit should be regarded as a privilege, as NMFS must balance permit issuance with its duties to protect and recover listed species.

Am I Using the Appropriate Application Instructions?

These instructions are for permits for research and/or enhancement activities involving listed **marine and anadromous species** (other than marine mammals and land-based sea turtle activities). They can also be downloaded electronically from: ESA -

http://www.nmfs.noaa.gov/prot_res/PR3/Permits/ESAPermit.html

For permits on **marine mammal** species, please use the application instructions for marine mammals, available from the Internet:

MMPA - http://www.nmfs.noaa.gov/prot_res/overview/permits.html

If you need a permit for **both marine mammals and non-mammal marine species**, Use the application instructions for marine mammals, and include other species as appropriate. The application will be coordinated, and more information requested if necessary.

For **terrestrial or freshwater species, or land-based sea turtle activities**, please contact the appropriate regional office of the U.S. Fish and Wildlife Service:

<http://www.fws.gov/r9irmtsb/regional.html>

Do I Need to Apply for a Permit?

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

If you determine that you will be engaging in an activity that will **directly take** an ESA-listed species (i.e., the listed species is the subject of your proposed activity, and will likely result in the listed-species being harassed, captured, harmed, possessed, or killed), and your planned activity is otherwise lawful, a section 10 (a)(1)(A) permit for research or enhancement is required. Examples of activities that may require a section 10 (a)(1)(A) permit include, but are not limited to: surveys, genetic research, hatchery operations, relocations, capture and marking, and telemetric monitoring. Under certain circumstances, a section 10(a)(1)(A) permit may also be required to possess tissues and/or body parts of ESA-listed species.

If you are engaged in an otherwise lawful activity where a listed species may be adversely affected, and the purpose of your activity is not scientific research or enhancement of listed species, you may need to obtain a section 10(a)(1)(B) permit (**Incidental Take Permit**). Examples of activities that may require a section 10(a)(1)(B) permit include, but are not limited to: state sportfishing programs, non-listed fish stocking programs, and other instream or watershed activities which may impact listed species. If your proposed activities require an incidental take permit, you will instead need to use the section 10(a)(1)(B) instructions, which are available from one of the addresses below, under “**Where Do I Send the Application?**”, or from the NMFS Office of Protected Resources web site, ESA - http://www.nmfs.noaa.gov/protected_resources/PR3/permits/ESApermit.html.

Before applying for an individual permit, you should determine if your proposed project is a part of another authorized activity. You are strongly encouraged to coordinate with others doing similar work, to minimize duplication and the impact on listed species. If two investigators are collaborating on the same activities, they should apply for a single permit. Also, if your proposed activities are responding to a Federal Agency requirement, you may not need a section 10 (a)(1)(A) permit. For example, fish surveys required under an ESA section 7 biological opinion may be authorized under the Incidental Take Statement, if so written, with no section 10 permit needed.

When Should I Apply?

To allow for processing time, and to ensure the timely issuance of a permit should one be granted, you are urged to apply at least four months prior to the start of your proposed activities.

What Should I Include in the Application?

A permit application should provide all of the information outlined below, and for processing efficiency, in the same structure and format. We will use the information that you provide to determine whether your application is complete, and whether to issue a permit for the proposed activities. If any section does not apply, please do not skip the section, simply mark it "not applicable" or "N/A." Applicable

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

information should be adequately detailed, to provide a complete picture of your proposed activities. Incomplete or vague information will delay processing. Please note that specific wording is required for the title and closing statement. If you already have a project proposal, you may attach the proposal and reference the appropriate section of it in response to relevant questions of the application instructions.

Where Do I Send the Application?

Mail one signed original of the complete, final application to the appropriate address below. You should also submit a copy electronically (on disk or email- contact the appropriate office for a current email address), which may speed processing. If you need assistance in compiling your application, please contact, or submit a draft to, the appropriate office.

Permits for Pacific salmonid species in California:

Chief, Protected Resources Division
National Marine Fisheries Service - F/SWR3
777 Sonoma Avenue, Room 325
Santa Rosa, CA 95404
Phone: (707) 575-6050
Fax: (707) 578-3435

Permits for Pacific salmonid species in the Pacific Northwest:

Chief, Protected Resources Division
National Marine Fisheries Service - F/NWO3
525 NE Oregon Street, Suite 500
Portland, OR 97232-2737
Phone: (503) 230-5400
Fax: (503) 230-5435

Permits for sea turtles or species in any other areas:

Chief, Endangered Species Division
National Marine Fisheries Service - F/PR3
1315 East-West Highway, Room 13552
Silver Spring, MD 20910-3226
Phone: (301) 713-1401
Fax: (301) 713-0376

What is Involved in Processing a Permit Application?

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

Once a complete permit application is received by NMFS, the application is subject to a 30-day public comment period. The 30-day public comment period begins when a "notice of receipt" is published in the Federal Register (required by regulations). NMFS may also distribute the application for review by scientific and technical experts, resource managers, and/or other Permit Holders. After the 30-day public comment period, NMFS will forward a summary of the comments for the applicant to address. The applicant must submit a written response.

NMFS must conduct an ESA section 7 consultation on the proposed activity, which results in a biological opinion on the activity. In order to issue a section 10(a)(1)(A) permit for the activity, NMFS' biological opinion must conclude that the proposed activity is not likely to jeopardize the continued existence of any ESA-listed species, or result in the destruction or adverse modification to the designated critical habitat of any listed species.

In addition, NMFS may be required to conduct the following consultations on the potential effects of the activity proposed in the application: (1) Consultation with U.S. Fish and Wildlife Service regarding potential effects to species under their jurisdiction; (2) consultation between NMFS Protected Species Division and NMFS Habitat Conservation Division regarding any activities taking place in Essential Fish Habitat (EFH); and (3) consultation with the National Ocean Service if the action takes place in a National Marine Sanctuary. Issues arising from these consultations may delay the permit process.

Finally, for activities that NMFS considers to be for the purpose of enhancing the propagation and/or survival of an ESA-listed species, such as hatchery supplementation programs or fish salvage operations, NMFS may be required to conduct an analysis under the National Environmental Policy Act (NEPA). The analysis usually consists of an Environmental Assessment (EA) on the NMFS action of issuing a section 10(a)(1)(A) permit with conditions. In general, permits that are issued for the purpose of scientific research are categorically excluded from the need to conduct an analysis under NEPA.

After NMFS receives appropriate responses from the applicant to the public comments, completes a biological opinion and any other necessary consultations including a NEPA determination (if required), NMFS will make a decision on whether or not to issue the permit. NMFS must find that the permit: (1) Was applied for/proposed in good faith, (2) if granted and exercised will not operate to the disadvantage of the listed species that is/are the subject of the permit, and (3) will be consistent with the purposes and policies set forth in the ESA. NMFS will then notify the applicant of the decision, and publish a notice about the decision in the Federal Register (required by regulations).

How Do I Modify an Existing Permit?

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

A request to modify an existing permit should address all sections of these instructions that address the requested change, and include a detailed description and justification of the proposed changes. Modification requests involving an increased number of species, increased risk to the species, additional species, or significant changes in the nature or location of activities may be subject to a 30-day public review period.

Paperwork Reduction Act and Confidentiality Information

The information collection associated with the following application instructions is required in order for the applicant to obtain an ESA section 10(a)(1)(A) permit. NMFS will use the information provided by the applicant to process the permit in accordance with the ESA. The information provided is not confidential and is subject to public review and comment.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB (Office of Management and Budget) Control Number. In addition, persons are not required to retain records for more than three years unless those records are health, medical, government contract, grant-in-aid, or tax records.

NMFS estimates that the average time to compile an application in accordance with these instructions is 40 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the application. For annual permit reports, NMFS estimates average response time at 10 hours per report. You may send comments regarding these estimates or any other aspect of this information collection, including suggestions for reducing this burden, to the Chief, Endangered Species Division, at the address under **“Where Do I Send the Application?”**

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

A. **Title:** (select one of the following:)

1. Application for Permit for Scientific Purposes under the Endangered Species Act of 1973.
(e.g. for field surveys, genetics research, etc.)
2. Application for Permit to Enhance the Propagation or Survival of Listed Species under the Endangered Species Act of 1973.
(e.g. for fish hatchery operations, etc.)
3. Application for Permit for Scientific Purposes and to Enhance the Propagation or Survival of Listed Species Under the Endangered Species Act of 1973.
(for activities which fall under both categories 1 and 2 above)
4. Application for Modification of Existing Permit.

B. **Species:** List all species and/or populations and/or Evolutionarily Significant Units (ESUs) for which you request take authority.

C. **Date of Permit Application:** Date you are sending the application.

D. **Applicant Identity:** The applicant is the individual and/or agency responsible for ensuring compliance with permit conditions, and may represent a group of individuals actually performing the activities (e.g., employees, partners, agents, and/or contractors). Please include the following information about the permit applicant:

1. Applicant's name and position title;
2. Institution or agency name;
3. Mailing address; and
4. Telephone and Fax number; and E-mail address.
5. If NMFS should be coordinating with a contact person different from the applicant, please also include the same information (1-4 above) for the principal contact.

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

- E. **Information on Personnel, Cooperators, and Sponsors.** (If the same person or entity will hold several roles, you may state their address information once and refer back to it).
1. If the applicant will not be the sole person conducting the proposed activities, provide the names, phone numbers, and résumés for each Principal Investigator and Field Supervisor. A Principal Investigator is ultimately responsible for the project and compliance with the permit conditions. A Field Supervisor (who may also be the Principal Investigator), is anyone who supervises or carries out the activities in the field without supervision, and will also be responsible for compliance with the permit conditions.
 2. To the extent possible, provide a list of field personnel.
 3. Please identify the secured or proposed funding source(s) for the proposed activities, including names, addresses, and phone numbers of the sponsors, cooperating institutions, etc.
 4. If the proposed activities will be conducted by a contractor, provide a statement that a qualified member of your staff (include name(s) and qualifications) will supervise or observe the taking. Include a copy of the proposed contract or a letter from the contractor indicating agreement to operate under any and all permit conditions, should a permit be granted.
 5. Provide a description of the arrangements for the disposition of any tissue samples, dead specimens, or other remains, either in a museum or other institution, for the continued benefit to science. Include the list of researchers, laboratories, museums, and/or institutional collections that would receive these tissue samples or specimens. Please include name, address, contact, and phone number for each.
 6. For transport and long-term holding of listed species, please provide the qualifications and experience of all staff responsible for care without supervision, including a written certification from a licensed veterinarian knowledgeable about the requested species (or similar species), or from a recognized expert on the species (or similar species) that he/she has personally reviewed the criteria for transporting and maintaining the animal(s) and that in his/her opinion they are adequate to provide for the well-being of the animal. Include the name and phone number of this veterinarian, consulting expert, or equivalent who will be available during the proposed activities.

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

F. **Project Description, Purpose, and Significance:** Please describe the purpose of your study or project. If available, please attach a copy of the formal project proposal or contract, including the contract number, to your application. You may reference the appropriate section of the proposal/contract in response to a particular question.

1. A justification of the objective(s): motivation, history, goals, etc., and how the wild populations of the species will benefit from the proposed activities;
2. A statement of whether the proposed project or program responds directly or indirectly to a recommendation or requirement of a Federal agency (Include citations if applicable);
3. A statement of whether the proposed project or program has broader significance than the individual project's goals, or is part of a larger scale research management or restoration plan (Include citations if applicable);
4. A description of any relationships or similarities of the proposed activities to other proposed or ongoing projects and programs, and whether the potential exists to cooperate and coordinate with other similar studies or activities. (Include citations if applicable); and
5. A justification for using listed species in the study or activities, and a discussion of possible alternatives to using listed species and/or to using the proposed methods. If applicable, you should try to anticipate alternative scenarios due to circumstances such as changes in environmental conditions, annual variations in species abundance, necessary changes in proposed procedures, etc. Such scenarios should be addressed in **Description and Estimates of Take** below if they affect the nature or amount of potential take of listed species. This planning may avoid the potentially lengthy process of modifying the permit.

G. **Project Methodology:** Please provide a detailed description of the project, or program, in which the listed species is to be used, including:

1. The proposed duration of the project or program, including start and end dates.

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

2. A discussion of the procedures and techniques which will be used during the project. The discussion should include, at a minimum:
 - a. Method(s) of capture and of release;
 - b. A description of any tags, including the attachment method, location, and expected duration of tag attachment;
 - c. A description of type and dosage of any drugs to be used, purpose of use, and method of application;
 - d. Temporary holding time prior to release of the individual(s) and the manner in which they will be detained (for transport and long-term holding, please fill out the section on **Transport and Holding**); and
 - e. Number and types of samples to be taken from each individual, including sampling protocol.
3. A discussion of the potential for injury or mortality to the species involved, and the steps that will be taken to minimize adverse effects and to ensure that the species will be taken in a humane manner.

H. **Description and Estimates of Take:** Issued permits define a specific number of individuals of each species that can be taken within the approved study or project. You must provide sufficient detail (in the table or in narrative) for NMFS to determine the species, population group, and estimated number of individuals to be "taken" due to each activity. You should also describe the specific age, size, (and sex, if appropriate) of the listed species targeted. Please take into account alternative scenarios identified above in **Project Description, Purpose, and Significance**.

The description of the listed species to be taken during the proposed activities should include the following:

1. A list of each species and/or population and/or Evolutionarily Significant Unit to be taken including the common and scientific name. Include specific population or sub-population groups if appropriate.

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

2. The sampling schedule, including locations and dates if available. Be as specific as possible. Locations should be listed from general to most specific, including bodies of water, rivers, tributaries, streams or creeks, and a geographical descriptor (e.g., Columbia River, Snake River, Imnaha River, River Mile 42 or Gulf of Mexico, Louisiana Coast, Sabine Pass). Include latitude/longitude coordinates, if possible.
3. A description of the recent status and trends of each species and/or population and/or ESU to be taken, relative to the location(s) or area(s) of taking. (Include citations if available).
4. A description and/or completed summary table (see attached example) of estimated take per annual period, for your activities at each discrete location and/or for each project. Please separate take information into “species profiles”– groups of individuals with the same characteristics that will be undergoing the same procedures (see b-h below). Make sure you do not double-count-- if you propose to capture 50 animals, and tag 5 of those, you should list 45 animals to be captured, and 5 to be captured & tagged. Each “species profile” should include:
 - a. Number of individuals;
 - b. Species and/or population and/or ESU;
 - c. Life stage (such as post-hatchling, fry, smolt, juvenile, immature, adult, etc. (note if live or dead))
 - d. Sex (if known);
 - e. Origin (if applicable, naturally-produced (wild) or artificially-propagated (hatchery));
 - f. Take activity category (such as observe/harass; capture and handle; etc.);
 - g. Location (if more specific than the project as a whole); and
 - h. Date(s) (if more specific than the project as a whole).
5. Estimates of potential annual mortalities by take category, including a justification. You should specify the life stage of the potential mortalities, sex if known, and whether naturally-produced (wild) or artificially-propagated (hatchery). Mortality estimates should be specific by population; by the activity causing the mortality; and/or by location when known. You should specify whether mortalities will be intentional (direct mortality) or unintentional (indirect mortality).
6. Provide details on how all take estimates, including mortalities, were derived. Include citations when applicable.

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

I. Transportation and Holding

1. **Transportation of a Listed Species:** Provide a description of how any live individuals taken from the capture site or other facility (including rescue and relocation activities) will be transported including:
 - a. Mode of transportation and name of transportation company, if applicable.
 - b. Length of time in transit for the transfer of the individual(s) from the capture site to the holding facility or to the target location.
 - c. Length of time in transit for any planned future move/transfer of the individual(s).
 - d. The qualifications of the common carrier or agent used for transportation of the individual(s).
 - e. A description of the pen, tank, container, cage, cradle, or other devices used, both to hold the individual(s) at the capture site and during transportation.
 - f. Special care before, during and after transportation (e.g., use of oxygen, temperature control, anesthetics, antibiotics, etc.)
2. **Holding of a Listed Species:** Describe the plan for care and maintenance of any live individuals, including a complete description of the facilities where any such individuals will be maintained including:
 - a. The dimensions of the pool(s) or other holding facilities and the number of individuals, by sex, age, and species, to be held in each.
 - b. The water supply, amount, and quality, including controls on temperature and dissolved oxygen.
 - c. The amount and type of diet used for all individuals, and food storage.
 - d. Sanitation practices used.

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

3. **Emergency contingencies:** Identify emergency contingencies- e.g., backup life support systems, alarm systems, redundant water and oxygen supply, release or destroy decision chains, etc.
- J. **Cooperative Breeding Program:** You must include a statement of willingness to participate in a cooperative breeding program and to maintain or contribute data to a breeding program, if such action is requested.
- K. **Previous or Concurrent Activities Involving Listed Species:**
1. Identify all previous permits where you were the permit holder or primary investigator working with federally-listed species. Please identify which species.
 2. For the above permits, please list all mortality events of listed species which have occurred in the last five years.
 - a. List the species, including scientific name and population where applicable;
 - b. Describe the number and causes of mortalities; and
 - c. Describe the measures that have been taken to diminish or eliminate such mortalities, and the effectiveness of those measures.
- L. **Certification:** You must include the following paragraph, exactly as worded, followed by the applicant or responsible party's name, position title, signature and date:

"I hereby certify that the foregoing information is complete, true and correct to the best of my knowledge and belief. I understand this information is submitted for the purpose of obtaining a permit under the Endangered Species Act of 1973 (ESA) and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties under the ESA."

Signature

Date

Name and Position Title

National Marine Fisheries Service (NMFS)
Application Instructions for a Permit for Scientific Purposes
or to Enhance the Propagation or Survival of Threatened and Endangered Species

- M. **Length of Time and Cost to Prepare Application (Optional):** The public burden of these application instructions is evaluated periodically by the Office of Management and Budget under the Paperwork Reduction Act. Your response will help improve the accuracy of the estimates given for evaluation. You may send comments regarding this estimate or any other aspect of this information collection, including suggestions for reducing this burden, to the Chief, Endangered Species Division, at the address under “**Where Do I Send the Application?**”
1. Please estimate the length of time, in hours, it took to compile this application.
 2. Please estimate the cost, in \$US, of compiling this application, excluding the labor hours identified in 1. above. This estimate should include: cost of paper, printing, mailing, photocopying, etc.

Anticipated Annual Take

Please use this or a similar table to specify anticipated types and numerical estimates of annual take for listed species during individual research or enhancement activities. Please use a separate table for each discrete project or location. Be sure to group take profiles so that when added up it equals the total number for which take is requested. For example, if you request to capture 50 green turtles, and you wish to attach transmitters to 5 of them, enter 45 green turtles for capture, handle, and release, and 5 for capture, handle, attach transmitter, and release.

Applicant: _____

Location/Project: _____

Number of individuals	Species and/or Population and/or ESU	Life Stage ¹	Sex ²	Origin ³	Take Activity Category ⁴	Location ⁵	Date(s) ⁶	Details
Example: 45	turtle, green sea (Florida Breeding Populations)	adult	N/A		Capture, measure, weigh, release	LA, Sabine Pass	May-July	
5	turtle, green sea (Florida Breeding Populations)	adult	N/A		Capture, measure, weigh, tag release	LA, Sabine Pass	May-July	

1. Such as: post-hatchling, fry, smolt, juvenile, immature, adult, etc. (also note if live or dead)
2. If known
3. If applicable, note if the species to be taken are naturally-produced (wild) or artificially-propagated (hatchery).
4. Such as observe/harass; collect for transport (including rescue/salvage); capture, handle, and release; capture, handle, tag, mark, tissue sample, and/or other invasive procedure, and release; intentional lethal take (direct mortality); unintentional lethal take (indirect mortality); removal (e.g., for broodstock collection); Other take (specify).
5. If more specific than project as a whole.
6. If more specific than project as a whole.

Anticipated Annual Take

Number of individuals	Species and/or Population and/or ESU	Life Stage¹	Sex²	Origin³	Take Activity Category⁴	Location⁵	Date(s)⁶	Details

1. Such as: post-hatchling, fry, smolt, juvenile, immature, adult, etc. (also note if live or dead)
2. If known
3. If applicable, note if the species to be taken are naturally-produced (wild) or artificially-propagated (hatchery).
4. Such as observe/harass; collect for transport (including rescue/salvage); capture, handle, and release; capture, handle, tag, mark, tissue sample, and/or other invasive procedure, and release; intentional lethal take (direct mortality); unintentional lethal take (indirect mortality); removal (e.g., for broodstock collection); Other take (specify).
5. If more specific than project as a whole.
6. If more specific than project as a whole.